

PAUL T. TRIMMER  
Nevada Bar No. 9291  
JOSHUA A. SLIKER  
Nevada Bar No. 12493  
LYNNE K. MCCRYSTAL  
Nevada State Bar No. 14739  
**JACKSON LEWIS P.C.**  
300 S. Fourth Street, Ste. 900  
Las Vegas, Nevada 89101  
Telephone: (702) 921-2460  
Facsimile: (702) 921-2461  
Email: paul.trimmer@jacksonlewis.com  
joshua.sliker@jacksonlewis.com  
lynne.mccrystral@jacksonlewis.com

*Attorneys for Defendants  
The Signature Condominiums, LLC, and  
Bellagio, LLC*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

## LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS,

**Plaintiff,**

VS.

HARRAH'S LAS VEGAS, LLC; THE  
SIGNATURE CONDOMINIUMS, LLC;  
BELLAGIO, LLC.

### Defendants.

Case No.: 2:20-cv-01221-RFB-NJK

**DEFENDANTS' THE SIGNATURE  
CONDOMINIUMS, LLC'S AND  
BELLAGIO, LLC'S REPLY IN  
SUPPORT OF THEIR MOTION TO  
DISMISS OR IN THE ALTERNATIVE  
SEVER CASE (ECF No. 5)**

Defendants The Signature Condominiums, LLC (“Signature”) and Bellagio, LLC (“Bellagio”) (collectively, “Defendants”), by and through their attorneys, Jackson Lewis P.C., hereby submit the instant Reply in Support of their Motion to Dismiss Plaintiff’s claims. This Reply is based on the following Memorandum of Points and Authorities, all pleadings and documents on file with the Court, and any oral argument the Court deems proper.

## **MEMORANDUM OF POINTS AND AUTHORITIES**

In its Response and Non-Opposition, Plaintiff effectively concedes that its joinder of Bellagio and Signature with Defendant Harrah's was improper and as a result, Plaintiff "joins [Bellagio and Signature's] request to server" the claims against Bellagio and Signature from those asserted against Defendant Harrah's. ECF No. 11, 3:19-26, 4:3-3. Indeed, Plaintiff's Non-Opposition is nothing less than an acknowledgment that the lawsuit was defective at its inception. Plaintiff was fully cognizant before and after it filed the Complaint that each defendant has a separate collective bargaining agreement with Plaintiff, that Bellagio and Signature have no relationship (ownership, corporate or otherwise) with Harrah's, and that the acts complained of by Plaintiff involve different dates, locations, people, policies, and circumstances. These facts alone plainly demonstrate that lumping all three Defendants together in one suit was improper. See *DirecTV, Inc. v. Beecher*, 296 F. Supp. 2d 937, 945 (S.D. Ind. 2003) (holding misjoinder of defendants occurred where plaintiff alleged "that many individuals have wronged it in the same way, but in separate transactions or occurrences."). Plaintiff's post hoc attempt to save face to justify its plainly inappropriate pleading practice warrants no consideration.

16 Next, Plaintiff “vigorously objects” to the dismissal of Bellagio and Signature from the  
17 instant case. *Id.* at 3:2-3. This vigorous objection has no merit. Granting Plaintiff’s request would  
18 require the Court to issue a decision which would be inconsistent with the weight of authority. In  
19 the District of Nevada, “[w]here parties have been inappropriately joined, it is accepted practice  
20 under Rule 21 to dismiss all defendants except for the first named in the complaint; this operates as  
21 a dismissal of plaintiffs’ claims against other defendants without prejudice.” *Anderson*, 2017 U.S.  
22 Dist. LEXIS 162219, at \*6 (quoting *Armstead v. City of Los Angeles*, 66 F. Supp. 3d 1254, 1263  
23 (C.D. Cal. 2014); *Fed. Hous. Fin. Agency v. Las Vegas Dev. Grp., LLC*, No. 2:16-cv-1187-GMN-  
24 CWH, 2017 U.S. Dist. LEXIS 146457, at \*3 (D. Nev. Sep. 11, 2017) (same). The dismissal is  
25 without prejudice. See *Anderson v. Valenzuela*, No. 2:17-cv-02070-APG-NJK, 2017 U.S. Dist.  
26 LEXIS 162219, at \*6 (D. Nev. Oct. 2, 2017) (dismissal is without prejudice). It is a procedural  
27 mechanism which permits the Court to achieve separateness and ensure a clean record. See *United*

1     *States v. Katz*, 494 F. Supp. 2d 645, 649 (S.D. Ohio 2006) (noting that “proceeding with essentially  
 2 two separate lawsuits under the same case number would, at a minimum, be quite confusing.”).

3                 The three cases cited in Plaintiff’s Non-Opposition do not support its position. None of  
 4 them stand for the proposition that dismissal without prejudice is improper. In *Greene v. Wyeth*,  
 5 the court severed claims against two defendants and remanded them to state court. 344 F. Supp. 2d  
 6 674, 685 (D. Nev. 2004). The *Greene* court did not (and could not) address what happened to the  
 7 severed claims in the state court as it had no jurisdiction to do so. The remaining two cases cited  
 8 by Plaintiff are non-binding authorities from outside the Ninth Circuit. In *Spaeth v. Mich. State*  
 9 *Univ. Coll. of Law*, the court severed claims against four defendants, opened four new case  
 10 numbers, and transferred the newly created cases to the home districts of each of the severed  
 11 defendants. 845 F. Supp. 2d 48, 61 (D.D.C. 2012). The court’s decision was merely in accordance  
 12 with the U.S. District Court, District of Columbia’s practice related to severance. *Id.* at 57 n.13  
 13 (“[S]everance of claims under Rule 21 results in the creation of separate actions.”’). In *Gruening*  
 14 *v. Sucic*, the court stated that it granted the defendants’ motion for severance without elaborating  
 15 how that was to be procedurally accomplished. 89 F.R.D. 573, 575 (E.D. Pa. 1981).

16                 The procedure for improper complaints is well established. *See, e.g., Anderson*, 2017 U.S.  
 17 Dist. LEXIS 162219 at \*6. When a plaintiff’s claims against one or more defendants are severed,  
 18 the court dismisses the severed defendants so the plaintiff can open a new case by filing a complaint  
 19 containing the claims against the severed defendants. That is the practice that should be followed  
 20 here. Plaintiff’s claims against Bellagio and Signature should be dismissed without prejudice.  
 21 Plaintiff can then open a new case by filing a complaint that names Bellagio and Signature and  
 22 contains only the facts and claims germane to them. Plaintiff’s claims against Harrah’s, the  
 23 defendant that Plaintiff chose to name first, will continue in this case.

24                 ///

25                 ///

26                 ///

27                 ///

28



## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of Jackson Lewis P.C., and that on this 20th day of July, 2020, I caused to be served via the Court's CM/ECF Filing, a true and correct copy of the foregoing **DEFENDANTS' THE SIGNATURE CONDOMINIUMS, LLC'S AND BELLAGIO, LLC'S REPLY IN SUPPORT OF THEIR MOTION TO DISMISS OR IN THE ALTERNATIVE SEVER CASE (ECF No. 5)** properly addressed to the following:

Paul L. More, SBN 9628  
Sarah Varela, SBN 12886  
Kim Weber, SBN 14434  
McCRACKEN, STEMERMAN & HOLSBERY, LLP  
1630 South Commerce Street, Suite 1-A  
Las Vegas, NV 89102  
Tel: (702)386-5107  
Fax: (702)386-9848  
E-mail: [pmore@msh.law](mailto:pmore@msh.law)

*Attorneys for Plaintiff*

---

*/s/ Mayela McArthur*  
Employee of Jackson Lewis P.C.

4814-0882-6563, v. 1